

ATTACHMENT A

Jay Johnson

From: Nate Bailey <Nate.Bailey@wallerlaw.com>
Sent: Thursday, November 19, 2015 2:27 PM
To: Jay Johnson
Cc: April Brown
Subject: RE: RCDI v ADS Settlement Offer

SUBJECT TO FRE 408

Jay,

This email is further to our phone conversation regarding settlement.

Let me be short.

My client believes that Claim 1 of the '090 Patent is invalid. Not only is Claim 1 clearly invalid under Section 101 after *Alice*, but Claim 1 is invalid under Section 102 for lack of novelty.

My client has evidence that you knew that Claim 1 of the '090 Patent was invalid under Section 102 when suit was filed and plans to present this evidence to the Court. Because of the above, my client believes that the E.D. Texas will declare the case against my client to be exceptional, and that my client will be awarded its attorneys' fees. The current *edekka* case illustrates Judge Gilstrap's current dissatisfaction with patent trolls and attempts to extract nuisance settlements out of Defendants. My client will not be the subject of such extortion and will fight this case very aggressively.

That being said, my client is willing to settle, go away quietly, and agree to a stipulated dismissal if your client is willing to pay our attorneys' fees and costs to date. The total number is currently \$43,330. That amount represents the time ADS has had to spend to assess the frivolous claims that have been made against our client, to answer the complaint, to prepare a Rule 12(c) motion, and to prepare a Rule 11 motion, which we will serve assuming our client's settlement offer is rejected.

Costs and attorneys' fees will only continue to rise.

My client is willing to entertain any reasonable counter offer.

This offer remains open until 5:00 p.m. tomorrow.

Regards,
Nate

Nate Bailey

Counsel

waller

Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, TN 37219
615.850.8740
nate.bailey@wallerlaw.com
vCard

The information contained in this message and any attachments is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this message in error, you are prohibited from copying, distributing, or using the information. Please contact the sender immediately by return e-mail and delete the original message.